

Law Offices of Albert J. Rescinio, L.L.C.

1500 Allaire Avenue - Unit #101

Ocean Township, New Jersey 07712

Telephone: (732) 531-2005

Telefax: (732) 531-8009

By: Albert J. Rescinio, Esq. (ID#034331989)

Attorneys for Plaintiff David M. Greco, *individually and on behalf of others similarly situated*

**UNITED STATES DISTRICT COURT
FOR THE
DISTRICT OF NEW JERSEY
NEWARK VICINAGE**

David M. Greco,
*individually and on behalf of others
similarly situated,*

Plaintiff,

vs.

Gurbir S. Grewal,
New Jersey Attorney General, et al.,

Defendants.

**Civil Action No. 3:19-cv-19145-BRM-TJB
Honorable Brian R. Martinotti, U.S.D.J.
Honorable Tonianne J. Bongiovanni, U.S.M.J.**

DECLARATION PURSUANT TO 28 U.S.C. §1746

ALBERT J. RESCINIO, ESQ. hereby swears, certifies and declares as follows:

1. I am the attorney for the Plaintiff in the above matter and as such I am fully familiar with all facts relevant to this case.

2. I hereby attach true copies of the following documents that are relevant to the subject of the motions that this Declaration is submitted in support of, to wit:

“Exhibit A”: Copy of “*Judge’s Class Action Notice and Claims Process Checklist and Plain Language Guide (2010)*” from the Federal Judicial Center;

“Exhibit B”: Proposed form of Envelope and long form (11 page Letter Size) “Notice of Class Action Filing” for direct mail notice;

“Exhibit C”: Proposed short form (1 page Legal Size) “Notice of Class Action filing” for publishing and posting; and

“Exhibit D”: Proposed “Plan of Providing Notice”.

3. I have been an attorney admitted to the bar of the State of New Jersey and the bar of the Federal District Court for the District of New Jersey for 30 years. I have routinely practiced in and appeared in all Municipal, State and Federal District and Bankruptcy Courts for years. In Federal District Court most of my cases have been general Civil and Civil Rights cases, including most recently successfully suing a local Municipality that applied an Ordinance so as to prohibit a political flag in violation of the First Amendment to the United States Constitution under 42 *U.S.C.* §1983. (*Hornick v. Borough of West Long Branch*).

4. I would submit that both my past experience and the level of the quality of my work in this case to date clearly supports my position that I am more than qualified to be appointed Lead Class Counsel in this case for all Trial and Appellate work necessary. *See F.R.Civ.P.* 23(g). Moreover, I have sufficient legal and clerical assistance available to me in my office to handle and properly administer the number of potential Class Members in this case. Lastly, while to date hundreds of TERPOS have been issued and

defended in State Court by countless attorneys, from what I can see I am the only attorney to date that has brought a specific legal challenge to a statute that is clearly facially unconstitutional. I submit that the Court should appoint me as Lead Class Counsel and approve a rate of \$550.00 per hour for my services (billed in minimum 6 minute increments), \$350.00 per hour for any other attorney services (billed in minimum 6 minute increments), and \$150.00 per hour for paralegal / administrative services (billed in minimum 6 minute increments), all which legal fees are recoverable from Defendants under 42 U.S.C. §1988 and only if Plaintiff(s) “prevail”. It is understood that if Plaintiff(s) do not “prevail” within the meaning of 42 U.S.C. §1983 & §1988 that I will be paid nothing and that no costs will be reimbursed. For this reason, the ultimate total fee charged shall be the total hourly rate of all work performed or 1/3 of the recovery, whichever is more. I also reserve the right to seek an “enhanced fee” if there are extraordinary results achieved by way of verdict or settlement.

5. In preparation for the Class Action phase of this case I have already purchased the domain name www.njredflaglawclassaction.com which will be a site where information on the litigation will be available to the general public. I have also rented a U.S. Post Office Box at my local Post Office which will be dedicated to this Class Action case.
6. Though specific statistics are not available, the Attorney General’s Office has released information to the media that states that on average 1 to 2 TERPOS have been issued every day since September 1, 2010, which means that the number of potential Class Members is somewhere between 100 and 500, with all names, address and other contact information for Class Members being kept in the New Jersey Superior Court AOC database. It is submitted that there is sufficient cause for this Federal Court to Order the

release of such names and other information to me as permitted by *N.J.S.A.* 2C:58-30.
(*See* also argument in “Exhibit D”).

7. Additionally, in general consultation with the *Manual for Complex Litigation* (Fourth), published by the Federal Judicial Center (2004), and in specific consultation with the “Judges’ Class Action Notice and Claims Process Checklist and Plain Language Guide (2010) also published by the Federal Judicial Center (*see copy of “Checklist” attached at “Exhibit A”*), I have prepared a proposed form of Envelope and long form (11 page Letter Size) “Notice of Class Action Filing” for direct mail notice (*see copy attached at “Exhibit B”*) and a proposed short form (1 page Legal Size) “Notice of Class Action filing” for publishing and posting (*see copy attached at “Exhibit C”*), along with a proposed “Plan of Providing Notice” (*see copy attached at “Exhibit D”*) which I hereby incorporate by reference and which I would ask the Court to approve.

I DECLARE UNDER THE PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

EXECUTED THIS 7TH DAY OF JANUARY 2020.

s/ *Albert Rescínio*

DATED: Jan. 10, 2020

ALBERT J. RESCINIO, ESQ.